

Mr. Chairman, Members of the Committee:

My name is Katrina Martin (M A R T I N); I was born and raised in the Dutton area and still live in that eastern part of Teton County near the path of the MATL line. I have been involved almost since the beginning in the public process which resulted in the Certificate issued to MATL by DEQ. I appreciate this opportunity to express my real concern about the far-reaching public policy implications of HB 198.

Eminent domain, the power of the state or its designated agents to take a person's private property for a public use or benefit, has existed for centuries and plays a crucial role in a nation's progress and development. No thinking person opposes the condemnation of private property for use by an entity building a public utility project. The current controversy has arisen only because deregulation of the electric industry has completely changed the nature of certain power generation and transmission projects.

With all due respect to Rep. Peterson, it is not accurate to state that MATL is the same as the Montana Power Company. For the decades of its existence MPC operated solely as a regulated public utility which generated

and distributed electricity to Montana consumers. Deregulation ended that model of operation, and with it, ended the existence of the “power company” as we knew it. Now we have multiple private entities which can generate electricity (wind and solar farms for instance), and we have “merchant” lines such as MATL which can build transmission. Please remember and consider the meaning of that important word “merchant.” It is the critical distinction between a public utility power line and a merchant transmission line that needs to be considered in this discussion of granting authority to take property from one private party and transfer it to another private party.

Let me illustrate how crucial this distinction is with what I’ll call the “4Bs.”

1. **Bailout.**

Merchant transmission came into existence at the time of deregulation; these merchant entities exist in a competitive economic environment. However, MATL is being built with 160 million dollars of federal stimulus money. It’s my understanding the company lost the

majority of its private financing a few years ago; it has now been bailed out by our federal government. [Just as an aside, if the Senate is so supportive of MATL, perhaps its members should pass a "sense of the Senate" resolution thanking President Obama, Senator Baucus, and Senator Tester for the stimulus money without which the MATL I project would probably not exist.]

2. **Borders.** This Legislature has spent a good deal of time on the issue of immigration and aliens. Apparently the concerns there only apply to individual human beings because this bill is going to give the power of condemnation to an alien corporation. Although it recently created a Montana LLP, MATL is a wholly owned subsidiary of a Toronto based company over which neither the US nor Montana governments has any sovereign authority. To give such an entity the power to take private property from Montana citizens and take profits across the border seems incomprehensible, especially when you consider MATL, unlike the Montana Power Company, is not going to serve one Montana electric consumer.

3. **A Bridge to Nowhere.** Three or four months ago I heard a respected Montana energy expert tell the media in a TV interview that the MATL line brings power into a cul de sac. It's true; the southbound capacity of the line can't be moved south of Great Falls due to congestion. MATL is at present a bridge to nowhere. Should such a project be granted power to take property in perpetuity from Montana farmers and ranchers; I don't think so.

4. **Bullies.** That's a strong word; I don't use it lightly and I know it's going to get me in trouble. But someone has to tell you about the way this company has treated landowners. MATL thought it had the power of eminent domain and it was not afraid to say so. Some landowners in our area had the threat of condemnation used against them in their very first meeting with land agents from the company. Land agents have approached older citizens, some widows and some couples, and threatened them with "court action" if the easement papers presented to them were not quickly signed. To reward this company by giving it condemnation authority after such behavior is not good public policy. What about the "Code of the West"? Perhaps to expect a company from eastern Canada to abide by your

Code is too much to ask.

These 4B's all relate back to that distinction between a public utility project and a merchant transmission project. Montana Power didn't get bailouts. It operated within our state's boundaries, a Montana company serving Montana consumers. It didn't build bridges to nowhere because it served Montanans. It may have acted like a bully at times, but it always knew the PSC was paying close attention to its conduct. The PSC has no authority over MATL.

Eminent domain is clearly appropriate for public utility projects. However, merchant transmission exists only in a competitive business environment. What is profitable one decade may not be profitable the next. The fickle nature of competitive business (which we all know relies in part on things such as federal tax policy, Congressional whim, and uncontrollable global conditions) is not a sound basis for invoking the awesome power of eminent domain. That is what makes it so wrong to equate MATL in this new deregulated marketplace with a traditional company that built public utility projects.

We often hear that those who receive government benefit should bear an equal measure of responsibility. MATL does not have the same responsibilities that Montana Power had; it has no mandate to serve Montana consumers. It should therefore not be given the same government benefit (the power to condemn property) that Montana Power was given.

I suggest that if you look at all the uses of eminent domain allowed under Montana statutes and case law, there are none where the entities involved exist in a completely competitive business environment and don't provide service available to Montana citizens.

A change in the business climate or in public policy goals such as renewable energy mandates, could completely undermine the economic viability of projects such as the MATL and MSTI lines. Should the developers of such projects really be entitled to **take** farm and ranch land from families who have, in many cases, been contributing to the economic and social health of this state for 4 or 5 generations?

Please, don't let that happen.

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3 March 2011 59433